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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,703	03/15/2004	Jozef Babiarz	57983.000158	8971
21967 7590 08/07/2007 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER JAIN, RAJ K	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,703

Applicant(s)

BABIARZ, JOZEF

Examiner

Raj K. Jain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: <u>9/21/05</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10, 11, 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Hadi Salim et al (USP 6,625,118 B1).

Regarding claims 1, 18 and 19, Hadi Salim discloses a method for admission control of packet flows in a network (see abstract), the method comprising:

determining at least one flow rate associated with a plurality of packets (see col 2 lines 53-55, data flow rate is determined by means of reading for congestion status);

marking at least one predetermined bit in at least one of the plurality of packets if the at least one flow rate is greater than a predetermined rate (see Fig. 3, col 5 line 65- col 6 line 15, a CE bit as a predetermined bit is marked based on congestion status.);
and

controlling an admission of additional packets into the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality of packets (see col 6 lines 5-55).

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Regarding claim 2, Hadi Salim discloses the network comprising of a plurality of network elements, and the at least one flow rate is determined at a first network element, where the first network element is part of an access link of the network (see Fig. 4 with source, routers and receivers, and the first network element the router A is part of the link network.)

Regarding claims 3-5, Hadi Salim discloses where the at least one of the plurality of packets comprises at least one signaling packet (see col 6 lines 17-20, signaling packets ACK are shown, see Fig. 7).

Regarding claims 6, Hadi Salim discloses echoing signaling packet (see col 6 line 2.).

Regarding claims 7, Hadi Salim discloses denying the admission of the additional packets into the network if the at least one predetermined bit in the at least one of the plurality of packets is marked (packet admission is controlled via congestion status see col 6 lines 4-15 and Fig. 3.).

Regarding claims 8, 10, 11, Hadi Salim discloses the admission of the additional packets into the network is controlled by an entity that controls the network (again see col 6 lines 4-15, Figs. 3, 4 the entity that controls the network may be one or more routers A, B, etc.).

Regarding claims 14, 15 Hadi Salim discloses where the predetermined rate is based on a network bandwidth allocated for the plurality of packets and used for a predetermined period of time (see col 2 lines 20-30, col 7 lines 23-35.).

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Regarding claims 16, 17 Hadi Salim discloses computer application of subject system (see col 11 lines 1-33.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hadi Salim et al (USP 6,625,118 B1) as applied to claim 1 above, and further in view of Davies et al (USP 6,483,805 B1).

Hadi Salim fails to disclose priority of packets and VoIP applications of the same.

Davies discloses priority of packets and VoIP applications of the same (see col 1 lines 14-20, col 7 lines 20-40.). Dynamically adapting packet flow thru the network based on packet or network priorities using differentiated services provides optimal bandwidth usage in a packet switched network.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of to incorporate the teachings of Davies within Hadi Salim so as to improve network performance by providing differentiated services based on priorities to optimize network performance.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain

/Raj K. Jain/

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August 5, 2007